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Case No. PHF 99,598 (7790/322)  
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**REMARKS/DISCUSSION OF ISSUES**

**Specification.** The specification was amended herein to correct typographical/grammatical errors, and to obviate Examiner Richey's objection to the Abstract. No new matter was added by the amendments of the specification herein.

**Pending Claims 1-6.** In the Non-Final Office Action, Examiner Richey rejected pending claims 1-6 on various grounds. The Applicant responds to each rejection as subsequently recited herein, and respectfully requests reconsideration and further examination of the present application under 37 CFR § 1.112:

- A. Examiner Richey rejected pending claims 1-5 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,1000,843 to *Proctor, Jr. et al.* in view of U.S. Patent No. 5,123,112 to *Choate*

The Applicant has thoroughly considered Examiner Richey's remarks concerning the patentability of claims 1-5 over *Proctor* in view of *Choate*. The Applicant has also thoroughly read *Proctor* and *Choate*. To warrant this 35 U.S.C. §103(a) rejection of claims 1-5, all the claim limitations recited in independent claims 1, 4 and 5 must be taught or suggested by the combination of *Proctor* and *Choate*. See, MPEP §2143. The Applicant respectfully traverses this §103(a) rejection of claims 1-5, because *Proctor* and *Choate* in combination fail to disclose, teach or suggest "selection means (18) for selecting, when possible, based on acquired data, at least an active secondary station (B ACT), and at least an alternative secondary station (B ALT(j)) suitable for becoming active" as recited in independent claims 1 and 5, and "a selection step (130, 150) of selecting, when possible, based on acquired data, at least an active secondary station, and at least an alternative secondary station suitable for becoming active" as recited in independent claim 4.

As to the traversal, Examiner Richey has correctly recognized the failure of *Proctor* in teaching the aforementioned limitations, and while Examiner Richey has asserted the *Choate* teaches the aforementioned limitations, a proper review of *Choate* reveals that *Choate* does not teach or suggest a selection of any alternative secondary

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station suitable for becoming active. Specifically, *Choate* discloses a sampling of all pilot signals offered within a reception area of the aircraft and a selection of a base station having the highest quality service from the sampled pilot signals. *Choate* will continue to sample the pilot signals to thereby ascertain the best base station at any given moment, but *Choate* never selects an alternate base station from among the remaining base stations after a selection of the best base station. See, Choate at column 4, lines 41-49; and column 15, lines 23-51.

To better point out and distinctly claim the present invention without narrowing the scope of the claimed invention, the Applicant has cancelled claims 1-5 herein, and added new claims 7-15. The Applicant respectfully asserts that new claims 6-15 are allowable over the art of record, because the art of record, particularly *Proctor* and *Choate*, fails to disclose, teach or suggest "selection means for, based on the acquired data, conditionally selecting at least an active secondary station and at least an alternative secondary station suitable for becoming active" as recited in independent claims 7 and 13, and "based on the acquired data, conditionally selecting at least an active secondary station and at least an alternative secondary station suitable for becoming active" as recited in independent claim 10; and

Withdrawal of the rejection of claims 1-5 under §103(a) as being unpatentable over *Proctor* in view of *Choate*, and an allowance of new claims 7-15 are therefore respectfully requested.

- B. Examiner Richey rejected pending claims 6 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,123,112 to *Choate* in view of U.S. Patent No. 6,100,843 to *Proctor, Jr.* et al.

The Applicant has thoroughly considered Examiner Richey's remarks concerning the patentability of independent claim 6 over *Choate* in view of *Proctor*. The Applicant has also thoroughly read *Proctor* and *Choate*. To warrant this 35 U.S.C. §103(a) rejection of independent claim 6, all the claim limitations recited in independent claim 6 must be taught or suggested by the combination of *Proctor* and *Choate*. See, MPEP §2143. The Applicant respectfully traverses this §103(a)

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rejection of independent claim 6, because *Proctor* and *Choate* in combination fail to disclose, teach or suggest "select, when possible, based on acquired data, at least an active secondary station, and at least an alternative secondary station suitable for becoming active" as recited in independent claim 6.

As to the traversal, Examiner Richey has correctly recognized the failure of *Proctor* in teaching the aforementioned limitation, and while Examiner Richey has asserted the *Choate* teaches the aforementioned limitation, a proper review of *Choate* reveals that *Choate* does not teach or suggest a selection of any alternative secondary station suitable for becoming active. Again, *Choate* discloses a sampling of all pilot signals offered within a reception area of the aircraft and a selection of a base station having the highest quality service from the sampled pilot signals. *Choate* will continue to sample the pilot signals to thereby ascertain the best base station at any given moment, but *Choate* never selects an alternate base station from among the remaining base stations after a selection of the best base station. See, *Choate* at column 4, lines 41-49; and column 15, lines 23-51.

To better point out and distinctly claim the present invention without narrowing the scope of the claimed invention, the Applicant has cancelled claim 6 herein and added new claims 16-18. The Applicant respectfully asserts that new claims 16-18 are allowable over the art of record, because the art of record, particularly *Proctor* and *Choate*, fails to disclose, teach or suggest "based on the acquired data, conditionally select at least an active secondary station and at least an alternative secondary station suitable for becoming active" as recited in independent claim 16.

Withdrawal of the rejection of claim 16 under §103(a) as being unpatentable over *Choate* in view of *Proctor*, and an allowance of new claims 16-18 are therefore respectfully requested.

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**SUMMARY**

The Applicant respectfully submits that pending new claims 7-18 as added herein fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested. If any points remain in issue that may best be resolved through a personal or telephonic interview, Examiner Richey is respectfully requested to contact the undersigned at the telephone number listed below.

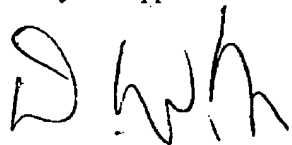
Dated: **December 11, 2003**

Respectfully submitted,  
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